



NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows, the Court finds appropriate, and therefore, it is ORDERED, ADJUDGED AND DECREED that:

1. This Consent Decree resolves all issues raised in EEOC Charge No. 450-2011-00838. This Decree further resolves all issues in the Complaint filed by the EEOC in this civil action. The EEOC waives further claims and/or litigation on all issues raised in the above-referenced Charge and Complaint. The EEOC does not waive processing or litigating Charges other than the above-referenced Charge.
2. During the term of this Consent Decree, Defendant, its officers, agents, successors and other persons in active concert or participation with it, or any of them, are enjoined from any employment practice that discriminates on the basis of disability with respect to recruitment, placement, hiring, termination, or any other employment action, and Defendant further agrees not to retaliate in any way against any person because of opposition to any practice declared unlawful under the Americans with Disabilities Act of 1990, as amended, or because of the filing of a charge, giving testimony, or assisting or participating in any manner in any investigation, proceeding or hearing.
3. The Defendant agrees to post the Notice appended hereto as Attachment "A" on the employee bulletin board at Wendy's #303, within thirty (30) days after the entry of this Consent Decree. Defendant will report to the EEOC that it has complied with this requirement within 14 days after posting the Notice. The Notice shall remain posted during the term of this Consent Decree.
4. Defendant shall continue to enforce its written policy prohibiting discrimination in the workplace including disability discrimination, and including a complaint procedure for

employees to notify. Defendant further agrees to continue its policy prohibiting discrimination, including disability discrimination, in its recruitment, screening and hiring of employees.

5. For each year that the Consent Decree is in effect, Defendant agrees to conduct an annual training session for all management and supervisory employees, including the President, managers, and assistant managers at Wendy's #303, advising them of the requirements and prohibitions of the Americans with Disabilities Act of 1990, as amended by ADAAA. The training will inform the employees of the complaint procedures for individuals who believe that they are being discriminated against by Defendant. This training will also include a specific discussion relating to hiring individuals with disabilities. The training shall also include an instruction on communication devices, such as the use of the Texas Relay Service (also referred to as "TTY") or video relay service regarding communication between Defendant's employees and applicants with hearing impairments. Within twenty (20) days following the training, Defendant shall submit to the EEOC confirmation that the training was provided to all managers, supervisors, and employees at Wendy's #303.

6. Defendant agrees to pay to Mr. Harrison the full and final sum of \$41,500.00 in compromise and satisfaction of all claims. The parties agree that \$5,000.00 is designated as lost wages. A W-2 shall be issued for this amount. A 1099 shall be issued for \$36,500.00.

7. The payment referenced above shall be made within 10 days after the effective date of this Consent Decree. Defendant agrees to report to the EEOC within 30 days of entry of this Consent Decree regarding its compliance with this paragraph.

8. All reports to the EEOC required by this Decree shall be sent to Joel Clark, Senior Trial Attorney, EEOC, 207 South Houston Street, Third Floor, Dallas, Texas 75202.

9. If Defendant fails to tender payment or otherwise fail to timely comply with the terms of paragraphs above, Defendant shall, as applicable:

a. Pay interest at the rate calculated pursuant to 26 U.S.C. Section 6621(b) on any untimely or unpaid amounts; and

b. Bear any additional costs incurred by the EEOC caused by the non-compliance or delay of the Defendant.

10. Neither the EEOC nor Defendant shall contest the validity of this Consent Decree nor the jurisdiction of the federal district court to enforce this Consent Decree and its terms or the right of either party to the Consent Decree to bring an enforcement action upon breach of any term of this Consent Decree by either such party. Nothing in this Decree shall be construed to preclude the EEOC from enforcing this Decree in the event that Defendant fails to perform the promises and representations contained herein. The EEOC shall be authorized to seek compliance with the Consent Decree through civil action in the United States District Court. The EEOC also reserves the right to seek contempt sanctions for non-payment and non-compliance with this Court Order.

11. The parties to this Consent Decree agree to bear their own costs and attorneys' fees associated with the above-referenced Complaint.

12. The term of this Decree shall be for two (2) years.

SO ORDERED, ADJUDGED AND DECREED this 9<sup>th</sup> day of

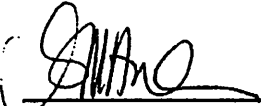
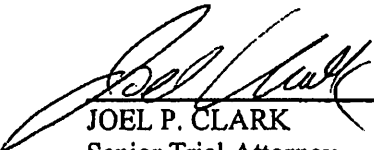
October, 2012.

  
\_\_\_\_\_  
U.S. District Judge

AGREED AS TO FORM AND SUBSTANCE:

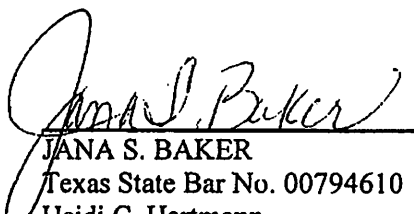
FOR THE PLAINTIFF EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:

ROBERT A. CANINO  
Regional Attorney  
Oklahoma Bar No. 011782

  
\_\_\_\_\_  
SUZANNE M. ANDERSON  
Supervisory Trial Attorney  
Texas Bar No. 14009470  
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JOEL P. CLARK  
Senior Trial Attorney  
Texas State Bar No. 24050425

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
Dallas District Office  
207 South Houston Street 3rd Floor  
Dallas, Texas 75202  
Tel No. (214) 253-2743  
Fax No. (214) 253-2749

FOR THE DEFENDANT CTW L.L.C. d/b/a WENDY'S

  
\_\_\_\_\_  
JANA S. BAKER  
Texas State Bar No. 00794610  
Heidi C. Hartmann  
Texas State Bar No. 24074370  
OGLETREE, DEAKINS, NASH, SMOAK  
& STEWART, P.C.  
8117 Preston Road, Suite 500  
Dallas, Texas 75225  
Telephone: (214) 987-3800  
Facsimile: (214) 987-3927

CONSENT DECREE

**ATTACHMENT A**

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**NOTICE TO ALL EMPLOYEES**

**This NOTICE will be conspicuously posted for a period of two (2) years at this facility and in all places where employment notices are posted. It must not be altered, defaced, or covered by any other material.**

**PURPOSE:** It is the purpose of this policy to reaffirm and amplify the position of the Americans with Disabilities Act of 1990, as amended, and the Equal Employment Opportunity Commission's guidelines and to reiterate CTW, LLC d/b/a/ Wendy's policy on disability discrimination. Discrimination of any kind can and often will detract from employees' job performance, discourage employees from remaining on the job, keep employees from advancing in their careers and lower overall employee morale and productivity. It is the policy of CTW, LLC d/b/a/ Wendy's that discrimination is unacceptable and will not be condoned.

**SCOPE:** This policy extends to all employees of CTW, LLC d/b/a/ Wendy's, both management and non-management.

**POLICY:** An employer cannot discriminate against qualified applicants and employees on the basis of disability. Under the Americans with Disabilities Act, a qualified individual with a disability is a person who (a) has a physical or mental impairment that substantially limits one or more major life activities; (b) has a record of impairment or (c) is regarded as having such impairment. The ADA also prohibits discrimination against a person because of their association or relationship with an individual with a known disability. This prohibition covers all aspects of the employment process, including:

- |                        |                        |
|------------------------|------------------------|
| * application          | * promotion            |
| * testing              | * medical examinations |
| * hiring               | * layoff/recall        |
| * assignments          | * termination          |
| * evaluation           | * compensation         |
| * disciplinary actions | * leave                |

CTW, LLC d/b/a Wendy's hereby states that the harassment of employees with disabilities is strictly prohibited. No disabled employee should be subjected to unsolicited and unwelcome name-calling, "jokes," comments or other harassing conduct, either verbal or physical, because of their disability. Further, under the ADA, an employer must make a reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability unless it can show that the accommodation would cause an undue hardship on the operation of its business.

**RESPONSIBILITY:** Each level of management is responsible for ensuring that all personnel policies, procedure, and activities are in full compliance with applicable federal, state, and local equal employment laws, statute, rules, and regulations regarding discrimination and retaliation.

Employees are expected to read, understand, and follow the policies that CTW, LLC d/b/a Wendy's has established to prevent discrimination, harassment and retaliation.

**REPORTING PROCEDURES:** Any employee who believes that he or she has been subjected to discrimination, harassment or retaliation is expected to report the conduct immediately to either that person's supervisor or to the next level supervisor or manager at CTW, LLC d/b/a Wendy's or report directly to the CTW corporate office, Attention James Hays, Vice President and Chief Operating Officer, CTW, L.L.C., 5400 Bosque Boulevard, Suite 650, Waco, TX 76710, phone (254) 772-7578. A prompt investigation of each complaint will be undertaken by CTW, which may include interviews of all employees, inspection of documents, including personnel records, and inspection of the premises.

**PUNISHMENT FOR VIOLATION:** Employees engaged in discriminatory conduct, including supervisors and managers, can expect serious disciplinary action. Any employee, whether management or non-management, who has been found to have unlawfully discriminated against another employee will be subject to appropriate sanctions, depending on the circumstances, such as a written warning in his or her personnel file up to and including termination of employment.

**RETALIATION:** There shall be no retaliation against any employee because that person has opposed what they believe to be unlawful employment practices, or has filed a charge of discrimination, or has given testimony, assistance, or has participated in any manner in any investigation, proceeding or hearing under the Americans with Disabilities Act of 1990, as amended. CTW, LLC d/b/a Wendy's will not punish employees for good faith reporting of discrimination simply because they make a complaint under the above guidelines.

**PROTECTION OF PRIVACY:** The question of whether a particular action or incident constitutes discrimination requires a determination based on all available facts. CTW, LLC d/b/a Wendy's will therefore make a concerted effort to protect the privacy of all personnel. Confidential information will be shared on a need-to-know basis to complete the investigation and to deal appropriately with the situation.

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE REMOVED OR DEFACED BY ANYONE. THIS NOTICE WILL BE POSTED FOR A PERIOD OF TWO (2) YEARS.**

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
On Behalf of:

CTW, LLC d/b/a Wendy's

13155197.1 (OGLETREE)

CONSENT DECREE